

REMARKS

Claims 1-15 are presently pending in this application, of which claim 1 is the sole independent claim. Claims 1-15 stand rejected. By this amendment, claims 1 and 2 have been amended, claim 10 has been canceled, and new claims 16-19 have been added. Upon entry of this amendment, claims 1-9 and 11-19 are pending, of which claim 1 is independent. Claim 2 was amended for grammatical reasons unrelated to patentability. A marked-up version of the amended claims, showing insertions and deletions, is attached as Appendix A. No new matter has been added by this amendment.

Rejections Under 35 U.S.C. § 102

Claims 1-5 and 9-14 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,116,306 to Zander (“the Zander ‘306 patent”). Claims 1-5, 9-13 and 15 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,674,664 to Simon (“the Simon ‘664 patent”). Claims 1-5, 9-12 and 15 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,806,742 to Mott et al. (“the Mott ‘742 patent”). Claims 1-6 and 10-13 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,216,932 to Wu (“the Wu ‘932 patent”). Claims 1-8, 10-13 and 15 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,544,745 to Famorca (“the Famorca ‘745 patent”).

Amended claim 1 recites, *inter alia*, a retaining cavity “configured and dimensioned to hold a handgun therein.” None of the references cited by the Examiner teach, disclose, or suggest such a feature. For example, the Zander ‘306 patent is directed to a clavicle strap joined to a posture training device provided with weight pockets for holding weights. The weight pockets are not configured and dimensioned to hold a handgun therein. Similarly, the Simon

'664 patent and the Wu '932 patent are directed to backpacks or backpacks that have a generic pouch that is not configured and dimensioned to hold a handgun. The Mott '742 patent is directed to a pack with shoulder straps for holding a rifle; however, the pack is not configured and dimensioned to hold a handgun. The Famorca '745 patent is directed to a case for exchanging audible and written messages and includes cassette pockets for holding audio cassettes, a battery pocket for storing batteries, and a detachable recorder pocket for carrying an audio cassette recorder. None of the aforementioned pockets of the Famorca '745 patent are configured and dimensioned to hold a handgun therein. As the features recited in claim 1 are not taught or suggested by the cited references, Applicant submits that this claim is allowable over the cited references. With respect to claims that depend from claim 1, Applicant submits that, because these claims define more particular aspects of Applicant's invention (as well as including the features of claim 1), they are also patentably distinguished over the cited references for at least the above reasons, as well as the totality of the claimed invention.

New Claims

Claims 16-19 are newly presented for the Examiner's review and consideration. Claim 16 is dependent from claim 1 and recites an opening between the sheath and an overlay material to facilitate receipt and removal of a handgun. *See, e.g.*, page 4, lines 14-17 of the specification. Dependent claims 17-19 recite additional features of the retaining cavity. None of the cited references disclose, teach, or suggest these additional features. Thus, Applicant submits that claims 16-19 are also patentable over the cited references.

CONCLUSION

In view of the foregoing, it is believed that all rejections have been overcome and should be withdrawn. Thus, all current claims are submitted to be in condition for allowance, early notice of which would be appreciated. If the Examiner does not agree, then a personal or telephonic interview is respectfully requested to discuss any remaining issues and accelerate the eventual allowance of the claims.

If any fees are deemed necessary, including any fees required under 37 C.F.R. § 1.136 for any necessary extension of time to make the filing of the attached documents timely, please charge or credit the difference to Deposit Account No. 50-2228. Further, if these papers are not considered timely filed, then a request is hereby made under 37 C.F.R. § 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Dated: July 28, 2003

Respectfully submitted,

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APPENDIX A**Marked-Up Version of Amended Claims**

1. (Amended) A holster for carrying a gun on an upper back of a wearer, comprising a sheath, a retaining cavity and a harness, wherein the sheath is adapted to fit on the back of the wearer such that the sheath extends across a portion of the upper back of the wearer, and wherein the retaining cavity is configured and dimensioned to hold a handgun therein.
2. (Amended) The holster of claim 1, wherein the harness is adapted to fit over the [body/both] shoulders[/upper torso] of the wearer.